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## COPYRIGHT OF FOREIGNERS.

ROLLS COURT, SATURDAY, NOV. 11. — COCKS v. PURDAY.—This was a motion made on behalf of the defendant, C. H. Purday, to dissolve an injunction obtained by the plaintiff, R. Cocks, to restrain him from selling or disposing of a musical composition which was an infringement of the plaintiff's copyright in a like musical composition. Both parties are publishers of music, and Englishmen domiciled in England; and it appeared that Joseph Labitzky, a native of Carlsbad, in the empire of Austria, and domiciled there, was the author of a musical composition called "Die Elfin Walzer," which he assigned to Johann Hoffman, of Prague; that Hoffman then sold it to the plaintiff on the 8th of August, 1842; and that it was agreed that it should be published on the same day at Prague and in London. Accordingly it was so published, and duly entered here at Stationers' Hall, by the plaintiff, as publisher and proprietor. Subsequently the plaintiff discovered that his copyright in the music was being infringed by the defendant, and he immediately brought an action on the case against the defendant. On the 19th June, 1846, the action was tried, and the jury found for the plaintiff on all the pleas. In November following, a rule *nisi* to move for a nonsuit was obtained, and a special case was afterwards agreed upon, which was argued on the 19th of January last, and judgment was given in favour of the plaintiff on the 12th of May. The plaintiff then filed his bill in June to restrain the defendant from infringing his copyright, and in July served notice of motion upon him for an injunction for that purpose. Pending the action at law, however, and in January, 1846, the defendant published a musical composition called the "Elfin Song," which, the plaintiff alleged, was taken from "Die Elfin Walzer," that is, the melody was taken, and additions or variations were superadded. To this song, as well as to the piece directly infringing the copyright of "Die Elfin Walzer," the attention of the defendant was drawn in the notice of motion for the injunction, but the defendant's solicitor wrote to the plaintiff to say he would not appear on the motion, as the copyright was of no value, though he did not admit the right of the plaintiff; and the injunction was granted without opposition, and was extended to the Elfin Song, the Court proceeding upon the supposition that the question was determined by the judgment at law. The plaintiff now moved to dissolve the injunction so far as related to the Elfin Song, but did not seek to disturb it as to the Waltzes.

Mr. Walpole and Mr. Campbell, for Mr. Cocks, contended that it would be very hard on the plaintiff to send him back to law again, when the copyright of the waltzes, including the melody forming a part thereof, and which was the base of the Elfin Song, was found to be the plaintiff's, and when the defendant did not contest it at the trial at law, though he might, nor even on the motion for the injunction.

Lord Langdale stated the facts, and observed that, as to the Elfin Waltzes, the Court, in granting the injunction, went on the judgment at law; but as to the Elfin Song, it went on the notion that all question between the parties was determined by the judgment: but it was now said that though there may be a right to the copyright of the Elfin Waltzes, there may not be any to the Elfin Song; and if that be so, it must be tried elsewhere. The plaintiff cannot, it is true, be

entitled to a perpetual injunction till the matter is tried at law; but the question is, what is to be done in the mean time? There is no imputation on either party; both thought at the time of the trial that the matter would be thereby decided; but they may be wrong, and the defendant may have it tried at law, but not on such terms as if he had come to the Court at once. Though somewhat doubtful about it, he would continue the injunction; the plaintiff being the party to bring the action at law, and the defendant being bound to admit the copyright of the Elfin Waltzes.—*Morning Post*, Nov. 13th.

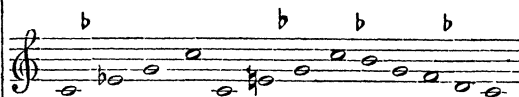
*Church Music*, by Wm. Jackson, of Masham, composer of the Oratorio of the "Deliverance from Babylon." London: Novello.

Inundated as we are by Italian melodies, and German harmony, it is with no less pleasure than pride that we see before us a beautiful illustration of that school of the art which has ever been regarded as no less lofty than purely English. The noble catalogue which exhibits the names of Tallis, Bird, Bull, Croft, Purcell, Green, Boyce, &c., and the never-failing effect of their sublime effusions upon the heart as well as ear, constitute evidence incontrovertible of the truth of the principles which gave them birth. We cannot too highly express our admiration of the artist who, obviously possessing talent convertible into more immediate currency, prefers asserting the dignity of his art in a walk trodden now by few, and in which profit or popular applause is little likely to be found. Knowing this for a too general result, our gratification at the perusal of Mr. Jackson's beautiful effusions is almost equalled by our surprise and satisfaction at perceiving among his patrons, Church dignitaries of the highest rank, and professors whose names and standing at once give weight and fame. We cannot omit noticing the admirable mode in which the work is sent forth.—*Liverpool Mercury*.

## Correspondence.

To the Editor of the "Musical Times."

SIR,—With reference to the few words on Solmization in a late number of the "Musical Times," may I be allowed to suggest the expedient of placing (in elementary exercises) a flat above each minor interval, thus, in the example given in the article referred to—



in complicated modulations a double flat might be placed over the diminished intervals, and a single sharp over the extreme sharps. By means of an exercise book marked as above, children might commence reading music at a very early age, unembarrassed by the difficulties of naming or counting the notes, and unencumbered with the theory of scales and keys, which however ingeniously illustrated, is apt to prove a "pous asinorum" to students of a larger growth. If numbers or letters afford the clear expression for musical ideas, it may be asked why we should be at the trouble of ruling music-paper. If, on the other hand, music is most intelligible in its own notes, why embarrass the student with so many different schemes of notation.

Z. Q.